

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS
COMMITTEE MEETING
FEBRUARY 19, 2008, 4:10 P. M.
Room C445, State Capitol, State Capitol Complex**

Members Present:

Sen. Lyle Hillyard, Committee Co-Chair
Rep. Ron Bigelow, Committee Co-Chair
Sen. Peter Knudson, Vice Chair
President John Valentine
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan Eastman
Sen. Pat Jones
Sen. Sheldon Killpack
Sen. Brent Goodfellow
Rep. Becky Lockhart, Vice Chair
Speaker Greg Curtis
Rep. David Clark
Rep. Brad Dee
Rep. Brad King
Rep. David Litvack
Rep. Carol Spackman Moss
Rep. Phil Riesen
Rep. Gordon Snow

Members Absent: Sen. Curtis Bramble

Staff Present: Jonathan Ball, Legislative Fiscal Analyst
Steven Allred, Deputy Director
Karen C. Allred, Secretary
Karen Allred, Secretary

Others Present: Dr. David H. Sundwall, Executive Director, Utah Department of Health
John Nixon, Governors Office of Planning and Budget

List of Others Present on File

Committee Co-Chair Bigelow called the meeting to order at 4:20 p.m.

1. Approval of Minutes

MOTION: Co-Chair Hillyard moved to approve the minutes of February 13, 2008.

The motion passed unanimously with Sens. Eastman, Dmitrich and Knudson, and Speaker Curtis and Rep. Moss absent for the vote.

2. Approval of Revenue Estimates and Spending Limit

MOTION: Sen. Hillyard moved to adopt the revised revenue estimates for FY 2008 and FY 2009 as indicated on page 1 of the green sheet titled "Revenue Estimates -- February 2008" and dated today, February 19, 2008.

A green sheet containing this information is in the Executive Appropriations Committee FY 2009 binder.

The motion passed unanimously with Sens. Eastman, Davis, Dmitrich and Knudson and Speaker Curtis and Rep. Moss absent for the vote.

MOTION: Sen. Hillyard moved to adopt the appropriations limits as indicated on the blue sheet titled "FY 2008 - FY 2009 Appropriations Limit -- February 2008: and dated today, February 19, 2008.

Pres. Valentine questioned if the blue sheet means the Legislature can appropriate \$32 million more for FY 2008, and \$287 million more for FY 2009.

Jonathan Ball answered that in FY 2008 the Legislature can make non-exempt appropriations, meaning appropriations from the general fund for things other than debt service, buildings and highways of \$32.8 million, and non-exempt appropriations of 286.5 million in 2009. He mentioned that any appropriation from the Uniform School Fund is outside the "Cap" so those don't count, and there are a number of exceptions that the committee knows about, such as debt service, buildings and transportation.

The motion passed unanimously with Sens. Eastman, Davis, Dmitrich and Knudson and Rep. Moss absent for the vote.

3. Approval of Fees, Intent Language, and Subcommittee Base Budget Actions

Sen. Hillyard explained to the committee some things that have been discussed, but that the committee may not understand some of the changes in the book. They have removed all advanced non-lapsing intent language, in other words if an appropriation goes through the end of FY 2009, and is non-lapsing, they have removed that with the idea that they can

look at that again next year before the end of the session, and see how the non-lapsing money is being used. They have eliminated all appropriations from the Petroleum Violation Escrow - Stripper Well Restricted Accounts. There have been a number of appropriations for that in excess of the amount of the money that is there. They intend to handle that before the end of the session, but need more time to assess that. They provided greater detail in the Medicaid budget, providing more accountability to the Legislature. They have made some technical amendments. Last year the Legislature funded the Libraries with a one-time appropriation, but it went to the State Library instead of the school libraries. It has now been corrected and has been given to the school libraries where it was intended. They have deleted repetitious intent language for the Tax Commission out of Federal and non-State funds associated with a certain reallocation of the Human Resources Budget and reduced the Health Budget for Medicaid savings adopted by the subcommittee, but not reallocated to another priority.

MOTION: Sen. Hillyard moved to approve the motions for all appropriations subcommittees, as shown on pages 1-1, 2-1, 3-1, 4-1, 5-1, 6-1, 7-1, 8-1, and 9-1, of the Executive Appropriations Committee binder.

Rep. Litvack questioned the intent language on page 5-1, for the Health and Human Services. Is the Committee approving this page, but not approving Adult Vision Services? The response was that in paragraph 2 of page 5-1, it states that those items on page 5-7, items 68-71 and 73 are excluded. Rep. Litvack questioned if the committee would come back to that and discuss it at a later date. Jonathan Ball explained that the language in question is for FY 2009, so as currently proposed it will need to be discussed later. Rep. Litvack is concerned whether this particular item will be later this session, or next session. Rep. Bigelow said that anything we adopt in this committee, is the first step, it does not preclude further motions. Anything is still open until the end of the session. Motions can be made on things that are not adopted here, and new items can be presented. Rep. Litvack requested that we divide out the motion and vote on this particular item separately. Co-chair Bigelow responded that the motion to divided would be noted and will be taken care of at the time of voting.

Pres. Valentine commented that it is his understanding that the committee would be dealing with further intent language later on this week. Co-chair Bigelow responded that there are proposals for additional intent language, but they would like to wait on motions on the new intent language until our meeting on Thurs. This will give the committee an opportunity to review it, and not have to make the decision on the spur of the moment. A packet of information will be given to each member of the committee to look over and be voted on Thursday. Pres. Valentine has a pilot program intent language that he wanted to move on, but will wait until Thursday.

Rep. King questioned on pages 8-1, Public Education, paragraph 2, which refers to language on 8-7, if that is an appropriation that will be voted on in this motion. Jonathan Ball responded that this is intent language that would deal with an appropriation on the priorities list, so it should be excluded, and include it only when and if the appropriation on the priorities list is approved. This was taken as a friendly amendment and Co-Chair Hillyard will delete it from there. As Co-Chair Bigelow mentioned, if there is more intent language after Thursday, the chairs would like it submitted, have legal staff look at it, and get it to the committee in time to review before the next meeting.

SUBSTITUTE MOTION: Pres. Valentine moved that everything in the primary motion, plus the motion that is in the book regarding vision be funded with the existing Medicaid budget.

Speaker Curtis questioned if the entire motion could be clarified. Co-chair Bigelow clarified that the motion is: All of the items on page one in each section, which includes fees, intent language, and internal re-allocations. The motions of those pages were modified by two items, (1) that we exclude the intent language from public Education since it referred to an item on the priority list, which we are not taking any action on, (2) include intent language on the Medicaid Vision program. Speaker Curtis questioned if the intent language on 8-7 would be included. Co-chair Bigelow responded that it would not be included. The reference on 8-1, 2nd paragraph, refers to 8-7. In each section, all of the intent language has been summarized into motions on page 1, and then summarized those into a single motion. Speaker Curtis questioned if Pres. Valentine's motion summarized those and included Medicaid Vision on page 5-7. Co-chair Hillyard responded yes, that item #73 was deleted in his motion would delete item #68-71, and #73 in that second paragraph, and Pres. Valentine's motion would be to reinstate item #73.

Rep. Clark questioned staff as to whether there were any other priority list items in the binder that the committee is not aware of. Jonathan Ball responded that he doesn't think so, he was unaware of that one, and is not aware of any other. Rep. Clark questioned Pres. Valentine's motion, what is done with the remaining portion of FY 2008 money, and does it have anything to do with current programs? Jonathan Ball responded that page 5-42, item 20, has intent language for FY 2008. Rep. Clark clarified that item 20 would be a funding for Medicaid adult vision services with a \$3 co-pay.

Speaker Curtis questioned page 5-42, item 20, how much are adult Medicaid Vision services, and what is the Medical Assistance budget and how much is in there. Co-chair Bigelow responded that he met with Dr. Sundwall, and the amount of the services is \$250,000 on an annual basis. Jonathan Ball responded that on page 5-4, at the bottom, is

the amount of the Medical Assistance budget. Speaker Curtis questioned if the department of Health currently has the statutory authority to do what is in item 73 with intent language.

Dr. David Sundwall, Executive Director, Utah Department of Health, responded that this has been an on-going point of discussion with the Legislature and that the Department of Health needs intent language to spend this money for adult vision services. They have prepared an amendment to the state plan so that when they get that intent language they can go ahead and spend the money budgeted for this fiscal year. They would like to have this as part of the on-going budget of the Health Department, so that they don't have to come back every year and ask for it. Speaker Curtis questioned does the Utah Department of Health have the legal authority to fund this program without this intent language. Dr. Sundwall responded that it is his understanding that they cannot spend it without the direction of the Legislature, but he assumes that if it is an optional service of Medicaid they have that as part of the state plan. Speaker Curtis questioned that he gets mail that the Department of Health is moving things around between various services, why wouldn't this qualify this same way? Dr. Sundwall responded that they can't spend money without notifying the Legislature or amending the State plan. His understanding was that if they were to shift money to other programs they would be in violation of the intent of the Legislature. He would like to be able to do this, but doesn't think it is legal. They need direction from the Legislature. Speaker Curtis asked if the intent language on page 5-7, is for FY 2008 that we are in, or for FY 2009. Dr. Sundwall responded that it is for FY 2009. Dr. Sundwall said that they can move within categories, but not between different categories. Speaker Curtis questioned John Nixon from the Governor's office if he agreed with Dr. Sundwall's comments.

John Nixon, Governors office of Planning and Budget, responded that it is his understanding that the Utah Health Department has the statutory authority to do this, but given the discussion that surrounded Medicaid Vision Services, he feels it is appropriate to get Legislative intent based upon this issue. Speaker Curtis questioned if there could be a policy that would give intent language to each one, and not pick and choose. John Nixon responded that in the intent language for FY 2008, the Legislature appropriated the money and put in intent language at the \$10 co-pay. It was determined when they couldn't get that waiver, the department would have to go back to the Legislature to seek clarification, because the Legislature had acted positively on that issue. Now the intent language allows them to do it at the \$3 co-pay. If the Legislature is silent in FY 2009, then the Executive branch would have the authority to instruct the Health Department to in act the program. This is something they would certainly want to work with the Legislature on. Speaker Curtis questioned if there were any other optional Medicaid Services that they want the committee to fund through intent language. The response was this is the only one that they

know of, and it isn't necessarily funding through intent language, but because it was a smaller amount, they recommended in the Governor's budget is that it be absorbed by the Health Department's base budget. There is another optional program that they will be talking about, but they will need an appropriation for that.

SUBSTITUTE MOTION WITHDRAWN: Pres. Valentine withdrew his substitute motion, because of the concern that the committee has, and they can talk more about his motion on Thursday.

Sen. Davis mentioned that a number of years ago, adult vision service was in the Medicaid budget, then it got taken out, and now they are trying to get it back.

Speaker Curtis feels that funding things through intent language, greatly circumvents the appropriation subcommittee and the work that they do.

Sen. Davis questioned whether this intent language was based upon the priority list of the subcommittee or action of the subcommittee within their budget.

The Chair ruled that the discussion must be to the motion, and since the motion was withdrawn and is not included in the original motion, he rules that we address the motion before us, which is to approve the motions for all appropriations subcommittees, as shown on page 1 behind tabs 1-9 of the binder, excluding Public Education's intent language in the second paragraph of page 8-1.

Rep. Litvack withdrew his request to divide the motion.

Rep. Lockhart had a point of order, on tab 3, 2nd paragraph, item 50, page 3-10, didn't we already move that the words "and personal" be removed in our last meeting. Staff checked the minutes and reported that the removal of "and personal" was talked about, but a motion was never placed or voted on.

Co-Chair Hillyard wanted to clarify his motion that it is only the 2nd paragraph on page 8-1 that is not included.

SECOND SUBSTITUTE MOTION: Pres. Valentine moved that we adopt the intent language on page 1 behind each tabs 1-9 of the binder, except 8-1 where we delete the 2nd paragraph, and delete the words "and personal" on page 3-10, item 50.

The motion passed unanimously with Speaker Curtis absent for the vote.

Any additional intent language needs to be given to the Chairs, so that it can be put in a packet and will be given to the committee, prior to the next meeting.

MOTION: Co-chair Hillyard moved to adjourn.

The motion passed unanimously with Pres. Valentine and Speaker Curtis absent for the vote.

The meeting was adjourned at 5:02 p.m.

Minutes reported by Karen C. Allred, Committee Secretary.

Sen. Lyle W. Hillyard, Co-Chair

Rep. Ron Bigelow, Co-Chair